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6 Attorneys for Defendant Peri Formwork Systems,
7 Inc.

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

10
11 WILLARD PATRICK WITHAM, an
Individual,

12 Plaintiff,

13 v.

14 PERI FORMWORK SYSTEMS, INC., a
15 Foreign Corporation; DOES I through X, and
16 ROE BUSINESS ENTITIES I through X,
inclusive,

17 Defendants.

Case No. 2:21-cv-01632

**DEFENDANTS' PETITION FOR
REMOVAL**

Trial Date: None Set

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21 COMES NOW, Petitioner/Defendant PERI FORMWORK SYSTEMS, INC. ("Defendant"),
22 by and through its attorneys, the law firm of WOOD, SMITH, HENNING & BERMAN, LLP, and
23 hereby remove the above-captioned action currently pending in the District Court of Clark County,
24 Nevada to the United States District Court for the District of Nevada.

25 **I.**

26 **BACKGROUND**

27 1. On or about July 28, 2021, Plaintiff filed a Complaint in the District Court of Clark
28 County, Nevada (hereinafter the "State Court Action"). The State Court Action was assigned Docket

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No. A-21-838577-C.¹

2. On or about August 9, 2021, Defendant Peri Formwork Systems, Inc. 's Registered Agent accepted service of the Plaintiff's Complaint in the State Court Action.²

3. Peri Formwork Systems, Inc. is named as a Defendant in the Complaint. The Complaint purports to assert causes of action sounding in (1) Strict Product Liability and (2) Negligence.³

4. In the Complaint, Plaintiff alleges that he sustained serious and permanent injuries after he fell twenty feet from a ladder which was leaned against the rail of a multi-prop shoring tower.⁴

5. Plaintiff seeks general damages in excess of \$15,000.00; special damages for medical and miscellaneous expenses, plus future medical expenses and miscellaneous expenses in excess of \$15,000.00; special damages for lost wages and/or diminution of earning capacity, plus future loss of earnings and/or diminution of earning capacity in excess of \$15,000.00; costs of this suit, attorney's fees and prejudgment interest; and "[a]ny other relief as the Court may seem just and proper in the premise."⁵ Plaintiff also asserts that he requires ongoing medical care as a result of the serious and permanent injuries sustained from the fall.

6. Pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1441(a), this Petition for Removal is being filed in the United States District Court for the District of Nevada, which is part of the "district and division" embracing the place where this action was filed – Clark County, Nevada.

7. Pursuant to 28 U.S.C. §1446(d), a Notice of Removal to All Adverse Parties will be promptly served upon Plaintiff's Counsel and filed with the Clerk of the District Court of Clark

¹ **Exhibit "A"**: Plaintiff's Complaint.

² **Exhibit "B"**: Affidavit of Service file stamped August 19, 2021.

³ See Exhibit "A", generally.

⁴ Id. at p. 3

⁵ Id. at pp. 7-8.

County, Nevada.⁶

II.

STATUTORY REQUIREMENTS: 28 U.S.C. §1332

8. Diversity. This Court has diversity jurisdiction of this action pursuant to 28 U.S.C. §1332.

9. Plaintiff alleges in his Complaint that he is a resident of the State of Nevada.⁷

10. Defendant Peri Formwork Systems, Inc. is a Maryland Corporation.

11. Diversity, therefore, exists because Defendant is an out-of-state Corporation that is incorporated and has its principal place of business in another state.

12. Amount in Controversy. Plaintiff seeks general damages in excess of \$15,000.00; special damages for medical and miscellaneous expenses, plus future medical expenses and miscellaneous expenses in excess of \$15,000.00; special damages for lost wages and/or diminution of earning capacity, plus future loss of earnings and/or diminution of earning capacity in excess of \$15,000.00; costs of this suit, attorney's fees and prejudgment interest; and "[a]ny other relief as the Court may seem just and proper in the premise."⁸ Plaintiff also asserts that he requires ongoing medical care as a result of the serious and permanent injuries sustained from the fall.

13. Therefore, this Court has jurisdiction of this action pursuant to 28 U.S.C. §1332 since the alleged amount in controversy is in excess of \$75,000.00.

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⁶ **Exhibit "C"**: Notice of Filing Petition for Removal to be filed concurrently with this Petition.

⁷ See Exhibit "A" at p. 1.

⁸ Id. at pp. 7-8.

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III.

CONCLUSION

Based on the forgoing, Petitioner/Defendant respectfully requests this action be removed to this Court, that all further proceedings in the State Court be stayed, and that Petitioner/Defendant obtain all additional relief to which they are entitled.

DATED: September 2nd, 2021

WOOD, SMITH, HENNING & BERMAN LLP

By: /s/ Vanessa M. Turley

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of September, 2021, a true and correct copy of **DEFENDANTS' PETITION FOR REMOVAL** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By /s/ Johana Whitbeck
Johana Whitbeck, an Employee of
WOOD, SMITH, HENNING & BERMAN LLP

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DEFENDANT'S PETITION FOR REMOVAL

INDEX

<u>EXHIBIT</u>	<u>DOCUMENT</u>
A.	Plaintiff's Complaint.
B.	Affidavit of Service file stamped August 19, 2021.
C.	Notice of Filing Petition for Removal to be filed concurrently with this Petition.